87R5046 CJC-F

By:  Johnson of Dallas H.B. No. 2088

A BILL TO BE ENTITLED

AN ACT

relating to the municipal sales and use tax for street maintenance; authorizing an increase in the rate of a tax.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1.  Section 327.003, Tax Code, is amended by amending Subsections (b) and (c) and adding Subsections (b-1), (c-1), and (d) to read as follows:

(b)  Subject to Subsection (b-1), a [~~A~~] municipality may not adopt a tax under this chapter or increase the rate of the tax if as a result of the adoption of the tax or the increase in the rate of the tax the combined rate of all sales and use taxes imposed by the municipality and other political subdivisions of this state having territory in the municipality would exceed two percent at any location in the municipality.

(b-1)  A municipality that is a member of a subregion of a transportation authority governed by a board described in Subchapter O, Chapter 452, Transportation Code, may not adopt a tax under this chapter or increase the rate of the tax if as a result of the adoption of the tax or the increase in the rate of the tax the combined rate of all sales and use taxes imposed by the municipality and other political subdivisions of this state having territory in the municipality would exceed 2.25 percent at any location in the municipality.

(c)  Subject to Subsection (c-1), if [~~If~~] the voters of a municipality approve the adoption of the tax or the increase in the rate of the tax at an election held on the same election date on which another political subdivision adopts a sales and use tax or approves the increase in the rate of its sales and use tax and as a result the combined rate of all sales and use taxes imposed by the municipality and other political subdivisions of this state having territory in the municipality would exceed two percent at any location in the municipality, the election to adopt a sales and use tax under this chapter has no effect.

(c-1)  If the voters of a municipality described by Subsection (b-1) approve the adoption of the tax or the increase in the rate of the tax at an election held on the same election date on which another political subdivision adopts a sales and use tax or approves the increase in the rate of its sales and use tax and as a result the combined rate of all sales and use taxes imposed by the municipality and other political subdivisions of this state having territory in the municipality would exceed 2.25 percent at any location in the municipality, the election to adopt a sales and use tax under this chapter has no effect.

(d)  This subsection applies only to a municipality described by Subsection (b-1) that adopts a tax under this chapter at, or increases the rate of a tax under this chapter to, a rate that, when added to all other sales and use taxes imposed by the municipality and other political subdivisions of this state having territory in the municipality, results in a combined sales and use tax rate that exceeds two percent at any location in the municipality. Notwithstanding any other law, the increment of the rate imposed by the municipality under this chapter equal to the increment by which the combined sales and use tax rate at a location in the municipality's territory exceeds two percent is excluded for purposes of any law other than a provision of this chapter in computing the combined rate of all sales and use taxes imposed by the municipality and other political subdivisions of this state having territory in the municipality.

SECTION 2.  Section 327.004, Tax Code, is amended to read as follows:

Sec. 327.004.  TAX RATE. The tax authorized by this chapter may be imposed at any rate that is an increment of one-eighth of one percent, that the municipality determines is appropriate, and that would not result in a combined rate that exceeds the maximum combined rate prescribed by Section 327.003(b) or (b-1), as applicable.

SECTION 3.  Section 327.006, Tax Code, is amended by adding Subsection (c) to read as follows:

(c)  This subsection applies only to a municipality described by Section 327.003(b-1) that proposes to adopt the tax authorized by this chapter at a rate that would result in a combined rate in excess of two percent of all sales and use taxes imposed by the municipality and other political subdivisions of this state having territory in the municipality. In addition to the statement required under Subsection (b), the ballot must include the following statement: "If adopted, this proposition may result in a combined local sales and use tax rate in (name of municipality) that exceeds two percent."

SECTION 4.  Section 327.0065, Tax Code, is amended by amending Subsection (b) and adding Subsection (d) to read as follows:

(b)  A municipality that has adopted a sales and use tax under this chapter may by ordinance increase the rate of the tax to any rate that is an increment of one-eighth of one percent, that the municipality determines is appropriate, and that would not result in a combined rate that exceeds the maximum combined rate prescribed by Section 327.003(b) or (b-1), as applicable, if the increase is authorized at an election held in the municipality.

(d)  This subsection applies only to a municipality described by Section 327.003(b-1) that proposes to increase the rate of the tax authorized by this chapter to a rate that would result in a combined rate in excess of two percent of all sales and use taxes imposed by the municipality and other political subdivisions of this state having territory in the municipality. In addition to the statement required under Subsection (c), the ballot must include the following statement: "If adopted, this proposition may result in a combined local sales and use tax rate in (name of municipality) that exceeds two percent."

SECTION 5.  Section 327.007(b), Tax Code, is amended to read as follows:

(b)  An election to reauthorize the tax is called and held in the same manner as an election to adopt the tax under Section 327.006, except the ballot proposition shall be prepared to permit voting for or against the proposition: "The reauthorization of the local sales and use tax in (name of municipality) at the rate of (insert appropriate rate) to continue providing revenue for maintenance and repair of municipal streets. The tax expires on the (insert "first day of the first calendar quarter occurring after the fourth anniversary" or "last day of the first calendar quarter occurring after the (insert[~~,~~] eighth[~~,~~] or 10th anniversary, as applicable)") [~~anniversary~~] of the date of this election unless the imposition of the tax is reauthorized."

SECTION 6.  Section 327.008, Tax Code, is amended to read as follows:

Sec. 327.008.  USE OF TAX REVENUE. Revenue from the tax imposed under this chapter may be used only to maintain and repair a municipal:

(1)  street or sidewalk; or

(2)  water, wastewater, or stormwater system located in the width of a way of a municipal street [~~streets or sidewalks existing on the date of the election to adopt the tax~~].

SECTION 7.  Sections 327.006(c) and 327.0065(d), Tax Code, as added by this Act, and Section 327.007(b), Tax Code, as amended by this Act, apply only to ballot language for an election ordered on or after the effective date of this Act. Ballot language for an election ordered before the effective date of this Act is governed by the law in effect when the election was ordered.

SECTION 8.  This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2021.